

NOT FOR PUBLICATION

SEP 15 2006

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

ZHONG HONG CUI,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-71068

Agency No. A96-050-086

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted September 11, 2006**

Before: PREGERSON, T.G. NELSON, and GRABER, Circuit Judges.

Zhong Hong Cui, a native and citizen of China, petitions for review of the
Board of Immigration Appeals' ("BIA") affirmance of an Immigration Judge's

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(“IJ”) denial of his applications for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”).

We lack jurisdiction to review petitioner’s CAT claim because he failed to exhaust the claim before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004). We therefore dismiss his CAT claim.

We have jurisdiction under 8 U.S.C. § 1252 over petitioner’s remaining claims. We review for substantial evidence, *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001), and deny the petition with regard to his asylum and withholding of removal claims.

Substantial evidence supports the IJ’s and BIA’s denial of asylum based on an adverse credibility finding. Because there were inconsistencies between petitioner’s testimony and application regarding his detention and subsequent beatings by the police, his asylum claim accordingly fails. *See id.* at 1042-43.

Because petitioner failed to demonstrate that he was eligible for asylum, it follows that he did not satisfy the more stringent standard for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.